

SANTA MONICA MOUNTAINS CONSERVANCY

RAMIREZ CANYON PARK
5750 RAMIREZ CANYON ROAD
MALIBU, CALIFORNIA 90265
PHONE (310) 589-3200
FAX (310) 589-3207



April 30, 2007

Stephanie Edmondson, AICP
Senior Planner
City of Malibu
23815 Stuart Ranch Road
Malibu, California 90265

**Comments on Initial Study No. 07-002 and Mitigated Negative Declaration No. 07-002
for Coastal Development Permit No. 05-023 for Lot Line Adjustment No.
03-006, and Coastal Development Permit Nos. 05-024, 05-025, and 05-026,
three proposed single family residences, 18805, 18807, and 18809 Pacific
Coast Highway, Tuna Canyon and Topanga Canyon watersheds**

Dear Ms. Edmondson:

The Santa Monica Mountains Conservancy (Conservancy) offers the following comments on the subject Initial Study No. 07-002 and Mitigated Negative Declaration No. 07-002 (IS/MND) for Coastal Development Permit (CDP) Nos. for a 3-lot lot line adjustment located at 18805, 18807, and 18809 Pacific Coast Highway (PCH), Tuna Canyon and Topanga Canyon watersheds. The project includes a lot line adjustment, and the construction of three single family homes (9,968 7,646, and 8,505 square feet). The project includes site plan reviews for construction in excess of 18 feet in height, variances for construction on slopes in excess of 2 ½ to 1, variances for grading in excess of 1,000 cubic yards, and a variance for a reduction in the required 100-foot distance from parkland. The site is bordered by Topanga State Park to the east, and Mountains Restoration Trust-protected land to the west. The Mountains Recreation and Conservation Authority owns Tuna Canyon Park to the northwest.

The Conservancy respectfully suggests that the IS/MND is inadequate and the project does not comply with the Local Coastal Program (LCP). This project warrants close scrutiny and analysis to ensure that impacts are adequately analyzed and that project alternatives are considered. The project should be redesigned to avoid significant adverse environmental impacts, and to comply with the LCP.

City of Malibu

CDPs 05-023, 05-024, 05-025, and 05-026, Tuna Canyon Watershed

April 30, 2007

Page 2

Environmentally Sensitive Habitat Area (ESHA) Impacts

Conservancy staff believes close scrutiny is warranted regarding the assessment of ESHA impacts for this project, given its location to protected land on all sides (except PCH). Also, the assessment of the extent of ESHA onsite directly affects the quantification of ESHA impacts and the rationale for the need for, or lack of need for, project alternatives (e.g., see discussion of fuel modification in IS/MND, p. 16). According to the LCP ESHA Map No. 4, all parcels are mapped ESHA with the exception of the PCH-facing slope easement area in Lot 1 (the most southerly lot) (IS/MND, p. 17). The Biological Assessment proposes reduced ESHA boundaries due to the altered state as a result of historic mechanical vegetation clearing activities and/or livestock grazing activities (pre-1970) (IS/MND, p. 17).

It may be that some areas that were significantly disturbed prior to 1970 and that support many non-native invasive plant species, are more appropriately not designated as ESHA. However, a review of the aerial photograph of the site on Google Earth suggests that the mixed chaparral and coastal sage scrub (albeit intermixed with non-native grassland) extends further than those boundaries shown on the biological report in some areas. The methods to determine any proposed revised ESHA boundaries needs to be transparent to the public. Specifically, what was the basis for drawing the ESHA boundaries in the specific areas (e.g., less than 50 percent native cover)? Were any transects done to document the gradient of change from undisturbed to moderately disturbed to highly disturbed, and to formulate a basis for where to draw the cut-off? Based on our review of the document, the revised boundary appears arbitrary. The California Environmental Quality Act (CEQA) document needs to include a color aerial overlain with the proposed revised ESHA boundaries.

A careful Environmental Review Board (ERB) review, including a site visit, will be valuable for this project site (if not already done so) and we look forward to seeing the results from that ERB review. As stated in the Land Use Plan (LUP; Policy 3.39), the ERB shall review development within or adjacent to designated ESHA, and the ERB findings must be included in the decisions on CDPs (Local Implementation Plan [LIP], Section 13.9). The physical extent of habitat meeting the definition of ESHA shall be made based on the applicant's site specific biological study, available independent evidence, and review by the City biologist and the ERB (LIP, Section 4.3). The findings of the ERB should be included in the CEQA document, and if that is not done, then at least they should be included in the staff report when this goes before the City's decision-making body.

In addition, the IS/MND is deficient for not disclosing the amount of ESHA that would be disturbed on adjacent public parkland associated with fuel modification.

City of Malibu

CDPs 05-023, 05-024, 05-025, and 05-026, Tuna Canyon Watershed

April 30, 2007

Page 3

The Biological Assessment concludes that 10-12 acres of the entire site will be impacted by the project. Based on any updated assessment of ESHA boundaries, this acreage of ESHA impact must be recalculated.

Fuel Modification Impacts on Park Property

On the most northerly lot, in addition to requested variances for construction on steep slopes and excess grading, a variance is being proposed for a reduction in the required 100-foot distance from parkland (i.e., Topanga State Park) (IS/MND, p. 5). The IS/MND (pp. 10-11) states that a 57-foot parkland setback has been requested, as no other feasible alternative for siting the primary structure exists. On what basis can the IS/MND flat-out say there is no other feasible alternative for siting the primary structure?

Given typical fuel modification requirements in Los Angeles County of approximately 200 feet, this would result in approximately 143 feet of annual fuel modification in Topanga State Park. Clearly, this is directly counter to the public interest. The IS/MND and the Biological Assessment do not propose alternatives to avoid this significant impact to park resources. For example, there is no discussion of the possibility of relocating the proposed home in another location, and/or to build the house into the slope, without grading an entire new pad. Policy 3.24 of the LUP states that in no case should buffers be less than 100 feet in width to parkland. This Policy does not obligate the City to approve a buffer of 100 feet. The LUP states that new development shall be sited and designed to minimize impacts to habitat and recreational opportunities (Policy 3.24). The project must be redesigned to avoid any fuel modification on public parkland or other protected land.

Visual Impacts

The IS/MND (pp. 10-11) states that the residences are visible from Tuna Canyon Road, a LUP-listed Scenic Road (LUP 6.3). The IS/MND states that the residences are not anticipated to have a substantial adverse effect on scenic vistas.

Driving down Tuna Canyon Road, the top of at least one proposed house is visible from several locations on Tuna Canyon Road on the largely undeveloped hill, and it is super visible along the ridge in at least one location along Tuna Canyon Road (based on the story poles). (This may be the most northerly house.) A viewsshed analysis, showing the photos of before and after views from Tuna Canyon Road, must be included the CEQA document. Given these anticipated impacts, and the Coastal Slope Trail alignment, project alternatives must be considered including relocating this one house and clustering it with one or more of the other proposed houses.

Trail Offer to Dedicate

The Conservancy appreciates the applicant's and City's efforts to offer to dedicate a portion of the Coastal Slope Trail on the property. However, the IS/MND provides no specifics to ensure that the trail would be functional and dedicated in a timely manner. The IS/MND must provide these specifics, or the public cannot assume that this benefit of the project will actually be realized. A non-functional trail offer-to-dedicate (OTD) could lead to potentially significant adverse impacts to recreation.

The IS/MND must specify that the trail offer to dedicate (or an actual trail easement) be recorded prior to any vegetation clearing and any grading. Agencies or entities appropriate to accept such trail dedications include Mountains Recreation and Conservation Authority, California Department of Parks and Recreation, or National Park Service. The IS/MND should specify the location (on a topographic map) and width of the trail easement. A 100-foot-wide-minimum trail easement is appropriate to provide latitude for landslides and to allow for adequate planning and safe construction of the final alignment of the trail. The MND must be recirculated for public comment. The revised MND must provide an analysis of visual impacts for future trails users on the Coastal Slope Trail, resulting from the homes, driveways, and fuel modification.

Also, has the applicant considered offering an OTD or trail easement for the planned trail to Topanga Lagoon, shown in the draft Santa Monica Mountains National Recreation Area Interagency Trail Management Plan?

Need for Alternatives Analysis

Based on the anticipated impacts to ESHA, visual resources, and parkland resources, a thorough alternatives analysis must be completed. The biological study is required to provide project alternatives designed to avoid and minimize impacts to sensitive resources (LIP, Section 4.4.2), and it not done so. The documentation does not provide alternative lot line adjustments that would maximize this reduction in impacts.

An alternatives analysis must be done, which analyzes clustering the three homes in the southern portions of the site, near where the two southerly homes are proposed. By moving the northerly-most proposed home to a southern location, this would avoid the fuel modification impacts on public parkland, and would reduce the need for such a long access road (consistent with LIP, Section 15.2). Also, this alternatives analysis should show feasible locations on homes built into sloped areas, without grading a completely level pad. The law

City of Malibu

CDPs 05-023, 05-024, 05-025, and 05-026, Tuna Canyon Watershed

April 30, 2007

Page 5

does not require large level pads. The LCP does not provide large level pads by right either.

The requirements for land divisions (Section 15.2 of LIP), including lot line adjustments, require that the project be designed to cluster development, including building pads, to maximize open space and minimize site disturbance, erosion, sedimentation and required fuel modification. Clearly, the project is not clustered. The IS/MND (p. 11) states that clustering would actually increase the amount of grading because it would require development on steeper gradients than currently proposed. The IS/MND does not provide any figures showing alternative locations, with calculations, that would support this statement. Again, large flat pads are not provided by right.

The IS/MND does not adequately justify the statement that the lot line adjustment reduced impacts to ESHA (IS/MND, p. 16). The documents do not clarify at all whether the currently most-northerly lot is even buildable.

In summary, additional analyses must be done for impacts to ESHA and visual resources, and the trail OTD needs to be fully clarified and set in stone. The project must be modified to reduce significant adverse impacts to environmental resources and to comply with the LCP, and the IS/MND must be recirculated for public comment. Thank you for your consideration of these comments. Please direct any questions to Judi Tamasi of our staff at the above address and by phone at (310) 589-3200, ext. 121.

Sincerely,

ELIZABETH CHEADLE
Chairperson